IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 447 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMESHCHANDRA MULSHANKAR DAVE - Petitioner(s)
Versus
COLLECTOR & SETTLEMENT OFFICER & 4 - Respondent(s)

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Appearance :
MR RR TRIVEDI for Petitioner(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7 MR BHAVESH P TRIVEDI for Petitioner(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6,1.2.7
GOVERNMENT PLEADER for Respondent(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 19/01/2007

ORAL JUDGMENT

1. The petitioners, by this writ application, seek the following reliefs, in para 15;

"(A) Your Lordship will be pleased to issue writ of mandamus or any other appropriate writ or direction quashing the order passed by the respondent No.4 dated 11th September, 1990 preferred against the judgment given by the respondent No.3 dated 6th October, 1986 arising out of City Survey Office, Jetpur Inquiry order dated 25th April, 1970.

(B) Hon'ble Court may further be pleased to issue direction to quash the eviction warrant No.EVP/WS/-414 dated 26th June, 1978 passed by the respondent No.1.

(C) That pending admission and till the final disposal of this petition, respondent No.1 to 5 may kindly be restrained from executing eviction warrant No.EVP/WS-414 dated 26th June, 1978 or pending admission and final disposal of this application, eviction warrant No.EVP/WS-414 dated 26th June, 1978 may kindly be stayed.

(D) That this Hon'ble Court will be pleased to pass such other and further order as nature and circumstances of the case may require."

2. On an earlier occasion, the very same petitioner had filed Special Civil Application No.7731 of 1990 challenging the order dtd.22/6/1977 and the consequential order of issuing warrant for eviction dtd.26/6/1976. The petition was dismissed on the ground of gross inordinate delay. The matter was taken in Letters Patent Appeal No.305 of 1990. It was submitted before the Division Bench that as the petitioner had annexed before the Division Bench the revisional order of 1990 which had confirmed the impugned order of 1977 and as by mistake, he missed to challenge the said order, the petition remained defective and that the petitioner be allowed to withdraw the main petition with liberty to file appropriate petition to challenge the revisional order in which the earlier order had merged. The Division Bench granted liberty in favour of the petitioner.
3. By this writ application, the petitioner now seeks to challenge order of 1990 but does not challenge order of 1977. By this petition, the petitioner again seeks to

challenge distress eviction warrant. The petition continues to be defective and does not come out of earlier dismissal which was confirmed by the Division Bench with the liberty in favour of the petitioner to file an appropriate writ application.

4. The petition is dismissed. Rule is discharged. Interim relief, if any, is vacated.

(R.S. GARG, J.)

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